

State of Iowa as conflicts with this act be and the same is hereby repealed.

Take effect.

Sec. 6. This act shall be in force from and after its publication in the Iowa Weekly Citizen and Iowa State Journal.

Approved March 23d, 1858.

I hereby certify that the foregoing act was published in the Iowa Weekly Citizen on the 7th day of April, 1858, and in the Iowa State Journal on the 8d day of April, 1858.

ELIJAH SELLS,  
Secretary of State.

## CHAPTER 149.

### STATE ROADS.

AN ACT defining the mode of laying out, establishing, changing and vacating State roads.

*Petition to County Judge.* SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That all State Roads, shall hereafter be established by petition to the County Court, as hereinafter provided.

*Points designated.* Sec. 2. All petitions for any State road shall specify the place of beginning, the intermediate points, if any, and the place of termination of said roads.

*Com'r appoint'd.* Sec. 3. On application by petition, signed by at least twenty freeholders of each county, through which it is proposed to establish any State road, the county Court of each of said counties shall appoint one disinterested freeholder of his county as Commissioner to view and survey said road.

*Bond given for expenses.* Sec. 4. Previous to granting an order on any petition presented as aforesaid, one of the parties in each county through which such road may pass, shall execute a bond with two or more responsible freeholders in said county, as securities to the satisfaction of the County Court, payable to the State of Iowa, and conditioned for the payment of all expenses which may accrue in the location of said road, in case the same shall not be established a public highway.

Sec. 5. On the filing of a petition and bond, agree-  
 able to the provisions of this act, which shall be at the  
 same term of court in all the counties interested in the  
 location of the road, the County Court of each county,  
 shall issue an order directing the Commissioner by them  
 appointed, to meet the Commissioners of the other  
 counties or county (as the case may be,) at the place of  
 the beginning of said road, on the first Wednesday of  
 the month then next ensuing, and the Commission-  
 ers when met as before directed, shall employ a compe-  
 tent Surveyor, chain-carriers and a marker, and other  
 assistants, if necessary, and proceed to discharge the  
 duties of their appointments, respectively; *Provided*,  
 that each Commissioner, Surveyor and Chain-carrier,  
 shall, before entering on the duties of his appointment,  
 take an oath or affirmation to discharge his duties faith-  
 fully, and according to law.

Com'rs meet.

Employ Survey-  
of

Qualify.

Sec. 6. Each State road shall be laid out from the  
 place of beginning to the place of termination on the  
 most practicable route, always having regard to suitable  
 ground, improvements already existing, section lines  
 and intermediate points, if any, and all State roads that  
 shall hereafter be established, agreeable to the provis-  
 ions of this act shall be opened and considered public  
 highways, sixty-six feet wide. *Provided*, that no road  
 shall be laid out through any garden, orchard or orna-  
 mental grounds, contiguous to a dwelling house, or so  
 as to cause the removal of any dwelling house or other  
 building without the consent of the owner.

Routes determin-  
ed.Gardens cannot  
be divided.

Sec. 7. The Commissioner appointed to lay out and  
 establish any State road, shall cause the same to be cor-  
 rectly surveyed and marked, through the whole distance,  
 and at each angle of the same, and note the courses and  
 distances thereof, and at the crossing of each road or  
 stream, and at the end of each mile, shall mark the  
 number thereof, on a tree or monument erected by them  
 for that purpose. And the Commissioners and Survey-  
 or of each ward, shall make a certified return of the sur-  
 vey and plat of the whole length of said road, specify-  
 ing in said return the distance the same may have been

Manner of sur-  
vey.Certificate and  
plat made out  
and recorded.

laid out in each county, and whether in their opinion the public convenience requires the establishment of said road or any part thereof. One complete copy of which return shall be signed by a majority of the Commissioners and Surveyor, and immediately deposited in the office of the County Judge of each county in which any part of said road shall be laid out, and the Judge of the said county shall file the same in his office.

Co. Judge determines the road upon notice by publication.

Sec. 8. In case the commissioners report in favor of the establishment of such road, the County Court of the respective counties shall, at their next regular term after the filing of said report, cause a notice thereof to be published in one or more newspapers published in the county, or having a general circulation therein for six consecutive weeks before the term at which the matter will be heard, notifying all the parties interested in the establishment of the same, that the respective County Court of the said counties, will hear the parties in favor of, or against the establishment of said road, and the application for damages of any person on account of the location of said road through his or their lands, *Provided further*, that written notices, posted in one or more of the most public places near the line of said road, in each township through which the road may pass, and one such on the door of the Court House of said county shall be given in all cases of publication under this act where no newspaper is established within the County.

Written notices may be given.

Aggrieved party indemnified.

Sec. 9. If any person or persons shall consider themselves aggrieved by the location of said road through his or their lands, such person or persons shall file with the County Judge of the proper county, a petition in writing, setting forth the premises on which they claim damages before the term of Court designated in the publication of the notice provided in the preceding section, and said Judge shall appoint a jury of three disinterested freeholders of the county, whose duty it shall be, after having taken an oath or affirmation, to faithfully and impartially discharge the duties imposed upon them by this act, to proceed to view the said road the

Jury appointed to assess damages.

entire distance, the same may have been located through the premises of the complainant or complainants, and of minors, idiots, lunatics or insane persons, and to assess the compensation to be paid in money for the property sought to be appropriated, without regard to the benefits resulting from the location of said road, and they shall report to the next regular term of said Court, their doings in the premises, setting forth the amount of damages by them adjudged due to each person or Company, and the description of such person or Company's land so damaged. Jury report.

Sec. 10. If the County Court shall be satisfied the amount so assessed and determined by the jury aforesaid be just and equitable, and that said road or any part thereof, will in their opinion, be of sufficient importance to the public to cause the damages to be paid by the county, they shall order the same to be paid the petitioner, from the County Treasury, but if in their opinion the said road is not of sufficient importance to the public to justify the payment of the same by the county, they may refuse to establish the same a public highway, unless the damages and expenses are paid by the petitioners. But if there be no application of damages or the damages are paid by the county or petitioners, then and in either case, the Court shall establish the same a public highway, and record the same in the proper Record. Co. may pay damages.  
Petitioners pay damages.  
Road establish'd

Sec. 11. The following persons required to render services under this act shall receive compensation for each day they shall necessarily be employed, as follows, to wit: Commissioners, two dollars per day, the Surveyor three dollars, and Chain-carriers, Markers and other assistants, one dollar and fifty cents each, to be charged as costs and expenses, and such costs and expenses when so adjudged, shall be paid by the several counties in proportion to the length of time occupied on such road in each county. Compensation of Surveyor, &c.  
Paid by county.

Sec. 12. An appeal from the final decision of the County Court on any petition for damages sustained by the location of any State road, as provided by this act, Right of appeal.

Security given  
for costs.

Transcript of  
proceedings.

Plaintiff and de-  
fendant.

shall be allowed to the District Court of the county in which the land lies; but notice must be given of such appeal within twenty days after said decision was made, and no appeal shall be allowed until the appellant shall have filed a bond, with sufficient security, approved by the County Judge, for the payment of all costs occasioned by such appeal, in case he does not obtain a better or more favorable judgment in said Court than he obtained of the County Court, and the County Judge shall, within ten days from the time such appeal was taken, deliver to said Court a full transcript of all proceedings had before the County Court, and on the receipt of such transcript, the Court or Clerk shall notify four of the petitioners whose names appear first upon the petition asking said road, that can be found in the county, and such notices may be served in the same manner as notices of appeal in other cases, and in such suits the appellant shall be plaintiff, and if the County Court has ordered the damages to be paid from the County Treasury, then the county shall be defendant, if not then the four petitioners above mentioned shall be defendants, and the final decision of said Court shall be certified to the County Judge, and by him recorded, which decision shall be final except as hereinafter provided.

Appellant pays  
costs.

Sec. 13. In all cases of appeal from the final decision of the County Court, as provided in the twelfth section of this act, the appellant or appellants shall pay all costs that may accrue in consequence of said appeal, unless the judgment in the District Court shall exceed in amount the award rendered by the jury appointed by the County Court.

Excessive costs  
stops the road.

Sec. 14. If upon the reception of the decision obtained in the District Court, the County Court shall not deem such road of sufficient importance to cause the expenses incurred and damages assessed in the District Court, to be paid by the county, he may refuse to establish the same unless the parties interested in the location of said road, shall pay or cause to be paid, before the opening of said road, to the satisfaction of the

County Court, in case said road is established a highway, all expenses incurred and damages assessed; *Provided*, however, it shall be lawful for the County Court, Portion of the road establish'd if in their opinion a part only of said road will be of public utility, to record and establish such useful part, and reject the residue, in case it be capable of division.

Sec. 15. In case such expense and damages are paid or secured to be paid as aforesaid, or the County Court Highway established. order the same to be paid out of the County Treasury, then, and in either case, he shall enter an order that said road be established a public highway.

Sec. 16. For their services required by the twelfth Fees. and thirteenth sections of this act, the officers and other persons required to perform services shall each be entitled to the same fees as they are entitled to by law for like services in other cases, to be taxed in the bill of costs in Court.

Sec. 17. It shall be lawful for the County Court of any county in this State, on notice given in one or more newspapers in general circulation in the county, for four consecutive weeks, and on petition being presented to the County Court, signed by at least twelve freeholders of the County, for lessening or reducing the width of any State road, which now is or hereafter may be laid out and established, if the Court shall deem just and proper so to do, to reduce the width of any such road or part thereof, to any width not less than thirty three feet, and shall make a record of the same; *Provided*, Reducing the width of roads. that the County Court shall, previous to making an order lessening or reducing the width of any State road as provided by this section, appoint three disinterested citizens of the county, to view and report to them under oath or affirmation, and at the expense of the petitioners as to the utility or inutility of such proposed change, and also the width which in their opinion is necessary. Road viewers appointed.

Sec. 18. The time for laying out and establishing State roads, provided for by special acts of the Sixth Time of laying out extended. General Assembly, is hereby extended to the first day of December, A. D. 1858.

State roads considered county roads. Roads discontinued.

Sec. 19. The portion of a State road lying within any county, shall, from the time the same is established, be regarded and treated in all respects as a county road, and may be changed or altered in the same manner as provided by law in case of county roads, and may be discontinued by the concurrent action of the County Courts of the several counties in which the same may be situated.

Approved March 23d, 1858.

## CHAPTER 150.

### TIMES OF HOLDING COURTS.

AN ACT to define the time of holding Courts in the several Judicial Districts in this State.

Court held in

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That the District Courts of the several Judicial Districts of this State shall be held at the times and places hereinafter designated.

1st Dist. Keokuk. Ft. Madison.

Sec. 2. In the First District, commencing at Keokuk, Lee county, Iowa, on the first Monday in February and September of each year, and at Fort Madison, in said county, on the third Monday in May and first Monday in December of each year.

Burlington.

At Burlington, in Des Moines county, on the first Monday in January, first Monday in October and third Monday in April each year.

Mt. Pleasant.

At Mount Pleasant, in Henry county, on the second Mondays of March, June and November each year.

Wapello.

At Wapello, in Louisa county, on the first Monday in April and fourth Monday in October each year.

2d Dist. Bloomfield.

Sec. 3. In the Second Judicial District, commencing at Bloomfield, in Davis county, on the first Mondays in March and September each year.

Ottumwa.

At Ottumwa, in Wapello county, on the second Monday after the first Monday in March and September each year.